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| APPLICATION NUMBER | FLING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
| 09/151,163 | 09/10/98 | FLAMM | D 16655-000810 |
| | | | EXAMINER |
| 020350 HM12/0605 TOWNSEND AND TOWNSEND AND CREW LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO CA 94111 | | | SCHEINER, L ART UNIT PAPER NUMBER 1641 6 |
| DATE MAILED: 06/05/00 | | | |

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- Responsive to communication(s) filed on 3/27/00
 This action is FINAL.
 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- Claim(s) 1-20 is/are pending in the application.
 Of the above, claim(s) 13-20 is/are withdrawn from consideration.
 Claim(s) _____ is/are allowed.
 Claim(s) 1-12 is/are rejected.
 Claim(s) _____ is/are objected to.
 Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
 The drawing(s) filed on _____ is/are objected to by the Examiner.
 The proposed drawing correction, filed on _____ is approved disapproved.
 The specification is objected to by the Examiner.
 The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 All Some* None of the CERTIFIED copies of the priority documents have been
 received.
 received in Application No. (Series Code/Serial Number) _____
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- Notice of Reference Cited, PTO-892
 Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
 Interview Summary, PTO-413
 Notice of Draftsperson's Patent Drawing Review, PTO-948
 Notice of Informal Patent Application, PTO-152

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Applicant's election of Group I (claims 1-12) in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Rice et al. (U.S. Patent 5,770,099).

Rice et al. teach a method wherein a substrate is etched at a first portion, and a first temperature; while an etch preventing polymer covers the portion of the film to be etched subsequently, at a second temperature. Temperatures vary such that the first temperature may be higher or lower than the second temperature. First or second portions of substrate may be etched first.

Vinogradov et al. (U.S. Patent 5,965,034) is cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie Scheiner, whose telephone number is (703) 308-1122. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward

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one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

L.S.
Laurie Scheiner/LAS
June 2, 2000

L.S.
LAURIE SCHEINER
PRIMARY EXAMINER